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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,726	11/12/2003	Peter Streuer	054821-0877	7254
26371 7590 09/04/2009 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306				
EXAMINER				
LEWIS, BEN				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
09/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER STREUER

Application 10/706,726
Technology Center 1700

Mailed: September 04, 2009

Before *JOYCE GUNTER-RILEY, Review Paralegal.*
GUNTER-RILEY, Review Paralegal.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on August 17, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER

GROUND OF REJECTION TO BE REVIEWED UPON APPEAL

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed May 22, 2009 under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure (MPEP) § 1207.02 (8th ed. Rev. 6, Sept 2007) for details.*

A review of the Examiner's Answer finds that it is unclear what rejected claims are on appeal as compared to the Appeal Brief and/or the Examiner's Answer does not clearly address differences between rejections set forth in the Examiner's Answer and those addressed in the brief.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims. Claim 34 was omitted in the Appeal Brief and the Grounds of Rejection in the Examiners Answer.

CONCLUSION

Accordingly, it is hereby

ORDERED that the application is returned to the Examiner for further consideration.

1) to vacate the Examiner's Answer mailed May 22, 2009;

2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required; and

3) for such further consideration

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

/jgr/

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